

CCRB INVESTIGATIVE RECOMMENDATION

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|---|-------------------------------------|-------------------------------------|---|------------------------------------|---------------------------------|
| Investigator: Liliana Manuel | Team: Squad #7 | CCRB Case #: 201509729 | <input type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Wednesday, 10/21/2015 4:16 PM | Location of Incident: § 87(2)(b) | Precinct: 62 | 18 Mo. SOL 4/21/2017 | EO SOL 4/21/2017 | |
| Date/Time CV Reported Mon, 11/16/2015 4:39 PM | CV Reported At: CCRB | How CV Reported: On-line website | Date/Time Received at CCRB Mon, 11/16/2015 4:39 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

| Witness(es) | Home Address |
|-------------|--------------|
| § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) |

| Subject Officer(s) | Shield | TaxID | Command |
|------------------------|--------|--------|---------|
| 1. DT3 Essence Jackson | 02268 | 938703 | NARCBBS |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|-----------------------|-----------|--------|----------|
| 1. DT3 Humberto Kibel | 02547 | 942004 | NARCBBS |

| Officer(s) | Allegation | Investigator Recommendation |
|-----------------------|--|-----------------------------|
| A.DT3 Essence Jackson | Abuse: Det Essence Jackson stopped § 87(2)(b) | § 87(2)(b) |
| B.DT3 Essence Jackson | Abuse: Det Essence Jackson questioned § 87(2)(b) | § 87(2)(b) |
| C.DT3 Essence Jackson | Abuse: Det Essence Jackson searched § 87(2)(b) | § 87(2)(b) |
| D.DT3 Essence Jackson | Abuse: Det Essence Jackson frisked § 87(2)(b) | § 87(2)(b) |
| § 87(4-b) § 87(2)(g) | § 87(2)(b) | § 87(2)(b) |
| § 87(4-b) § 87(2)(g) | § 87(2)(b) | § 87(2)(b) |

Case Summary

§ 87(2)(b) filed the following CCRB complaint on November 16, 2015, via the CCRB on-line website (Board Review 01). On October 21, 2015, at approximately 4:15 p.m., while walking to his job from his car, § 87(2)(b) was allegedly stopped and questioned by Det Essence Jackson of Narcotics Brooklyn South outside of § 87(2)(b)'s workplace; § 87(2)(b) located on § 87(2)(b) in Brooklyn (**Allegations A and B**). Det Jackson allegedly instructed § 87(2)(b) to empty the contents of his pockets, and proceeded to frisk § 87(2)(b) (**Allegations C and D**). Det Jackson's partner, Det Humberto Kibel, also of Narcotics Brooklyn South, responded to the incident shortly after Det Jackson stopped § 87(2)(b). § 87(2)(b) was not arrested or summonsed. § 87(2)(b)'s two coworkers, § 87(2)(b) and § 87(2)(b) were smoking cigarettes outside of § 87(2)(b) and witnessed the incident. § 87(2)(b) provided video footage of the incident which was obtained from a surveillance camera outside of § 87(2)(b) (Board Review 02; 14). The video footage did not include audio, but captured Det Jackson stopping and frisking § 87(2)(b) and showed Det Kibel arriving as § 87(2)(b) was being frisked. The video is embedded below.



201509729_20151201_1200_DM.mp4

This case went beyond the 90-day benchmark by approximately two weeks due to documentation delays, and because Det Kibel missed two CCRB interviews and Det Jackson missed three before arriving at the CCRB to provide a statement.

Mediation, Civil and Criminal Histories

- Mediation was presented to § 87(2)(b) on December 2, 2015. He rejected mediation.
- As of December 4, 2015, § 87(2)(b) had not filed a Notice of Claim with the City of New York with regard to this incident (Board Review 03).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (Board Review 05).
- Det Jackson has been a member of the NYPD for ten years. § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- Det Jackson has had fifteen previous CCRB cases involving thirty-five allegations, four of which were substantiated. In case 201508978, Det Jackson was alleged to have conducted two stops, a vehicle search, and a frisk. All four allegations were substantiated. § 87(4-b) § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- Among Det Jackson's other past allegations were two allegations of searches, a strip-search, a vehicle search, a vehicle stop, a stop, a frisk, § 87(4-b) § 87(2)(g)
§ 87(2)(b) One of the search allegations, as well as the

allegations of a vehicle stop, vehicle search, and frisk were exonerated. The remaining allegations were closed as “complainant/victim unavailable.”

Potential Issues

§ 87(2)(b) provided an unsworn phone statement to the CCRB on December 4, 2015, and § 87(2)(b) did so on December 9, 2015 (Board Review 16; 17). Their statements were generally consistent with § 87(2)(b)'s statement and confirmed what was already apparent in the video footage. § 87(2)(g)

Allegation A: Abuse of Authority – Det Essence Jackson stopped § 87(2)(b)

Allegation B: Abuse of Authority – Det Essence Jackson questioned § 87(2)(b)

Allegation C: Abuse of Authority – Det Essence Jackson searched § 87(2)(b)

Allegation D: Abuse of Authority – Det Jackson frisked § 87(2)(b)

§ 87(2)(b)'s original complaint did not provide any details of the incident other than that he was stopped and frisked. He provided an unsworn phone statement to the CCRB on November 30, 2015, and a sworn statement on December 2, 2015 (Board Review 13; 15). His statements were generally consistent. On the date of the incident, § 87(2)(b) was wearing a button-down shirt and orange pants. He had his phone, credit cards, and license in his front pockets, and likely had his car keys in one of his pockets as well. He walked straight from his car to work, and did not meet or speak with anyone on his way. § 87(2)(b) stated that when he was almost at his workplace, Det Jackson approached him, smoking a cigar, and asked if he had a lighter. Det Jackson quickly flashed his badge and stated, “Stop. Police.” Det Jackson asked § 87(2)(b) what he was doing. § 87(2)(b) explained that he was walking from his car to his job. Det Jackson then asked § 87(2)(b) to move to the side of the sidewalk. He asked § 87(2)(b) what he had in his pockets and if he had any guns or drugs. § 87(2)(b) replied that he did not have any guns or drugs, and that he had his phone and identification in his pockets. Det Jackson then asked § 87(2)(b) for his identification, and to remove the contents of his pockets. § 87(2)(b) complied. Det Jackson briefly looked at § 87(2)(b)'s license but did not make a call or run the license. He then patted § 87(2)(b)'s front and back pockets. While patting § 87(2)(b)'s pockets, Det Kibel pulled up in an unmarked RMP and approached § 87(2)(b). § 87(2)(b) was never told the reason for the stop, and was released after being frisked.

§ 87(2)(b) and § 87(2)(b)'s statements were generally consistent with § 87(2)(b)'s statements. However, neither § 87(2)(b) nor § 87(2)(b) was able to hear any conversation between Det Jackson and § 87(2)(b) and neither § 87(2)(b) nor § 87(2)(b) mentioned § 87(2)(b) having emptied his pockets. Both § 87(2)(b) and § 87(2)(b) found the stop to be questionable, as § 87(2)(b) did not appear to have been doing anything suspicious.

Surveillance footage from § 87(2)(b) shows that after Det Jackson approached § 87(2)(b), § 87(2)(b) pulled his left hand out of his pocket. It appeared as though he took something out of his pocket and may have handed it to Det Jackson. § 87(2)(b) then put his hand in his right pocket, and subsequently pointed up the street while Det Jackson looked at something small; likely § 87(2)(b)'s identification. The footage showed § 87(2)(b) again putting his hand in and out of his pocket, either removing its' contents or showing Det Jackson that his pocket was empty. Det Jackson then patted down § 87(2)(b)'s pockets, at which point Det Kibel arrived on scene.

Neither Det Jackson nor Det Kibel had any recollection of the incident, even after having been provided with a brief narrative, § 87(2)(b)'s photo, and the video footage (Board Review 18; 19; 20). Both officers identified themselves to be the officers depicted in the footage. They did not make any memo book entries regarding this incident and did not prepare any stop and frisk reports (Board Review 06; 07). Det Jackson acknowledged that according to the footage, he stopped and appeared to have frisked § 87(2)(b). Det Jackson could not recall why he stopped or frisked § 87(2)(b) and could not think of a reason for doing so based on the footage. He could not recall if he had asked § 87(2)(b) to remove the contents of his pockets, and could not recall if he questioned § 87(2)(b) about guns, drugs, or what he was doing. Det Kibel could not recall why Det Jackson stopped or frisked § 87(2)(b) and could not provide any reason to believe that § 87(2)(b) was armed or dangerous based on what he saw in the video footage. Det Kibel could not recall if Det Jackson questioned § 87(2)(b) or asked him to remove the contents of his pockets. He could not recall any conversation he or Det Jackson had with § 87(2)(b).

Officers may stop and question an individual to the extent necessary to gain explanatory information when they have reasonable suspicion that the person has committed, is committing, or is about to commit a crime, People v. DeBour, 40 N.Y.2d 210 (1976) (Board Review 08). In order to perform a frisk, an officer must have reasonable suspicion that a person is armed and dangerous, Arizona v. Johnson, 555 U.S. 323 (2009) (Board Review 09). In order to perform a search, an officer must have probable cause to believe that the person has committed a crime, People v. DeBour. Furthermore, requesting that an individual empty his pockets constitutes a search, People v. Van Lipscomb, 579 N.Y.S.2d 302, 303 (4th Dept. 1992) (Board Review 10).

§ 87(2)(g)

[REDACTED]

§ 87(4-b) § 87(2)(g)

[REDACTED]

§ 87(4-b) § 87(2)(g)
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§ 87(4-b) § 87(2)(g)
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Squad: ____

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date